

AMENDED IN SENATE JUNE 25, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MAY 17, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 706

Introduced by Assembly Member Leno

(Coauthors: Assembly Members Bass, Berg, Brownley, DeSaulnier, Hancock, Hayashi, Huffman, Jones, Lieber, Ruskin, and Swanson)

February 22, 2007

An act to amend Sections 19161 and 19161.3 of the Business and Professions Code, and to add Chapter 11 (commencing with Section 108930) to Part 3 of Division 104 of the Health and Safety Code, relating to fire retardants.

LEGISLATIVE COUNSEL'S DIGEST

AB 706, as amended, Leno. Fire retardants: toxic effects.

Existing law makes various findings related to the toxicity of certain fire retardants containing chemicals known as brominated fire retardants (BFRs) and chlorinated fire retardants (CFRs), and prohibits a person from manufacturing, processing, or distributing a flame-retardant part of a product containing more than one-tenth of 1% of prescribed retardants.

This bill would revise and extend the findings relating to fire retardants, and would, commencing January 1, 2010, require all seating, bedding, and furniture products to comply with certain requirements,

including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants, as defined. It would also require the Bureau of Home Furnishings and Thermal Insulation to enforce these provisions.

Existing law, the Home Furnishings and Thermal Insulation Act, requires all mattresses and box springs manufactured for sale in this state to be fire retardant. Existing law requires the bureau to adopt regulations requiring that fire retardant mattresses and box springs and other bedding products meet a specified resistance to open flame test.

This bill, commencing ~~March 1, 2009~~ *January 1, 2010*, would require the bureau to modify its standards for prescribed bedding products sold or offered for sale in this state, including, but not limited to, the requirement that they not contain brominated fire retardants or chlorinated fire retardants and be labeled as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 “California Furniture Safety and Fire Prevention Act.”
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) Chemicals known as brominated fire retardants (BFRs) and
- 5 chlorinated fire retardants (CFRs) are widely used in California.
- 6 To meet stringent fire safety standards, manufacturers add BFRs
- 7 and CFRs to a multitude of products, including, but not limited to,
- 8 the flexible polyurethane foam used in commercial, residential,
- 9 and institutional furniture. On June 1, 2006, two categories of fire
- 10 retardants known as penta brominated diphenyl ether (PentaBDE)
- 11 and octabrominated diphenyl ether (OctaBDE) were banned for
- 12 use at levels higher than one-tenth of 1 percent in virtually all new
- 13 products, including the plastic housing of electronics, computers,
- 14 and circuit boards as a result of legislation enacted in 2003 and
- 15 2004.
- 16 (b) Many fire retardants migrate in air, soil, or water, and
- 17 accumulate in people’s bodies and the environment. For example,
- 18 polybrominated diphenyl ether (PBDE), which is a subcategory
- 19 of BFRs, has increased fortyfold in human breast milk since the
- 20 1970s. Women in North America on average have 10 times the
- 21 levels of women in Europe or Asia. PBDE has the potential to

1 disrupt thyroid hormone balance and contribute to a variety of
2 developmental deficits, including low intelligence and learning
3 disabilities. PBDEs are structurally similar to dioxin, furans, and
4 polybrominated biphenyls which are known to cause cancer. In
5 addition to California's ban enacted in 2003, PentaBDE and
6 OctaBDE have been banned in several other states and in the
7 European Union.

8 (c) According to an American Public Health Association
9 Consensus Resolution, virtually all organo chlorides that have
10 been studied exhibit one or more serious toxic effects, including
11 endocrine dysfunction, developmental impairment, birth defects,
12 reproductive dysfunction, immunosuppression, and cancer, often
13 at extremely low doses. Organo bromides are known to exhibit
14 even more serious effects.

15 (d) Recent studies indicate that BFRs and CFRs have migrated
16 into the environment, and have been detected at high concentrations
17 in fish, as well as marine mammals, including, but not limited to,
18 dolphins and harbor seals, indicating that the chemicals are already
19 bioaccumulating in the food chain and in marine wildlife. Fish and
20 meat consumption are partly responsible for increasing levels of
21 some BFRs and CFRs in humans.

22 (e) Apart from toxic effects in humans and animals from direct
23 exposures, these chemical substances have been disposed of in
24 ways that contaminate soils, groundwater, drinking water, ambient
25 air, and natural ecosystems. Production and distribution of tens of
26 millions of pounds of these potentially toxic substances represents
27 an ongoing experiment with the health of the people and
28 environment of California without an adequate scientific
29 understanding of the long-term consequences of exposure to BFRs
30 and CFRs.

31 (f) According to the federal Centers for Disease Control and
32 Prevention, infants and children are particularly prone to absorb
33 BFRs and CFRs through direct physical or oral contact with these
34 compounds in furniture, inhalation of furniture dust containing
35 BFRs and CFRs, and via ingestion of these substances from their
36 mothers' milk and from their diets. Rates of pediatric health
37 problems, such as leukemia and brain cancer in children, testicular
38 cancer in adolescents, birth defects, and neurodevelopmental
39 disorders, including, but not limited to, dyslexia, mental retardation,

1 attention deficit/hyperactivity disorder (ADHD), and autism, are
2 steadily rising.

3 (g) Over the last 30 years, there have been hundreds of scientific
4 journal articles and reviews citing these and other negative health
5 impacts in people and in animals resulting from exposure to
6 brominated and chlorinated fire retardants.

7 (h) Substantial efforts to eliminate CFRs and BFRs, including,
8 but not limited to, PBDE and OBDE from products have been
9 made throughout the world, including the private and public
10 sectors. These efforts have made available alternatives safe to
11 human health while meeting fire safety standards.

12 (i) Fire safety education, smoke detectors, building sprinkler
13 systems, decreasing numbers of smokers, and mandated “fire-safe”
14 cigarettes with lower ignition propensity have greatly reduced the
15 fire risk posed by furniture and mattresses.

16 (j) In order to protect the public health, worker safety, wildlife,
17 and the environment, the Legislature believes it is necessary for
18 the state to prohibit the use of chlorinated and brominated fire
19 retardants in applications, including, but not limited to, commercial,
20 residential, and institutional furniture, mattresses, box springs,
21 futons, and bedding products including pillows, comforters, and
22 other filled blanket products, where the probability of human
23 exposure and improper disposal are high, especially if there are
24 technologically and economically feasible alternatives that can
25 maintain similar or superior fire retardancy. For these and other
26 reasons, in 2003 the Legislature asserted that it is necessary for
27 the state to develop a precautionary approach regarding the
28 production, use, storage, and disposal of products containing two
29 specific BFRs. The Legislature hereby expands its concern to
30 include all BFRs and CFRs in furniture, mattresses, and bedding.

31 SEC. 3. Section 19161 of the Business and Professions Code,
32 as added by Section 14 of Chapter 760 of the Statutes of 2006, is
33 amended to read:

34 19161. (a) All mattresses and mattress sets manufactured for
35 sale in this state shall be fire retardant. “Fire retardant,” as used in
36 this section, means a product that meets the standards for resistance
37 to open-flame test adopted by the United States Consumer Product
38 Safety Commission and set forth in Part 1633 of Title 16 of the
39 Code of Federal Regulations. The bureau may adopt regulations
40 it deems necessary to implement those standards.

(b) All other bedding products that the bureau determines contribute to mattress bedding fires shall comply with regulations adopted by the bureau specifying ~~the degree of fire or flame retardance~~ *that those products be resistant to open-flame ignition, except in the case that the bureau finds that resistance to open-flame ignition cannot be achieved without using components or chemicals prohibited pursuant to Chapter 11 (commencing with Section 108930) of Part 3 of Division 104 of the Health and Safety Code.*

(c) All seating furniture sold or offered for sale by an importer, manufacturer, or wholesaler for use in this state, including any seating furniture sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall comply with the regulations adopted by the bureau specifying the degree of fire or flame retardance, shall be labeled in a manner specified by the bureau, and shall comply with Section 108931 of the Health and Safety Code. This does not include furniture used exclusively for the purpose of physical fitness and exercise.

(d) Regulations adopted by the bureau for other bedding products shall not apply to any hotel, motel, bed and breakfast, inn, or similar transient lodging establishment that has an automatic fire extinguishing system that conforms to the specifications established in Section 904.1 of Title 24 of the California Code of Regulations.

SEC. 4. Section 19161.3 of the Business and Professions Code is amended to read:

19161.3. All flexible polyurethane foam in the form of slabs, blocks, or sheets, or which is shredded (loose or packaged), except polyurethane foam sold for use as carpet underlayment and polyurethane foam which cannot reasonably be expected to be used in or as an article of furniture or a mattress, that is offered for sale to the general public at retail outlets in this state for noncommercial or nonmanufacturing purposes, shall comply with the regulations adopted by the bureau specifying the degree of fire or flame retardance.

SEC. 5. Chapter 11 (commencing with Section 108930) is added to Part 3 of Division 104 of the Health and Safety Code, to read:

CHAPTER 11. BROMINATED AND CHLORINATED FIRE
RETARDANTS

108930. The definitions within Chapter 3 (commencing with Section 19000) of Division 6 of the Business and Professions Code shall apply to this chapter. In addition, the following definitions shall apply for purposes of this chapter:

(a) "Brominated fire retardant" means an organobromine chemical or organobromide used as a fire or flame retardant. *It does not include inherently fire or flame resistant fiber used in seating furniture, mattresses, or other bedding products.*

(b) "Chlorinated fire retardant" means an organochlorine chemical or organochloride used as a fire or flame retardant. *It does not include inherently fire or flame resistant fiber used in seating furniture, mattresses, or other bedding products.*

(c) *"Inherently fire or flame resistant fiber" means a polymeric fiber or mixture of polymeric fibers, where one or more fibers is comprised of a polymer with covalently attached fire retarding chemical groups built directly into the molecular structure of some or all of the repeating structural units. Nothing in this definition shall be construed to limit the authority of the bureau to prohibit the use of components or chemicals pursuant to subdivision (e) of Section 108931.*

108931. (a) Commencing January 1, 2010, all seating furniture, mattresses, box springs, mattress sets, futons, and other bedding products including, but not limited to, pillows, comforters, other filled blanket products, and sleeping bags that are sold or offered for sale by an importer, manufacturer, or wholesaler for use in this state, including any seating furniture, mattresses, box springs, mattress sets, futons, and other bedding products including, but not limited to, pillows, comforters, other filled blanket products, and sleeping bags sold to or offered for sale for use in a hotel, motel, or other place of public accommodation in this state, and reupholstered furniture to which filling materials are added, shall comply with the following:

(1) Shall not contain brominated fire retardants or chlorinated fire retardants.

(2) Shall be labeled with a permanent label attachment in a manner specified by the Bureau of Home Furnishings and Thermal Insulation.

(b) All permanent label attachments required pursuant to subdivision (a) shall comply with the following:

(1) Use plain language understandable to consumers, and in sufficient size as to be readily visible and legible.

(2) Include the following statement, “DOES NOT CONTAIN BROMINATED OR CHLORINATED FIRE RETARDANTS.”

(3) Include other markings or language specified by the Bureau of Home Furnishings and Thermal Insulation.

(c) By ~~March 1, 2009~~ *January 1, 2010*, the Bureau of Home Furnishings and Thermal Insulation shall modify Technical Bulletins 116 and 117 with product standards for furniture that shall achieve fire retardancy properties comparable to existing standards, sufficient to protect human health and safety, but without the use of brominated fire retardants and chlorinated fire retardants and without significant increases in costs to the consumer.

(d) The Bureau of Home Furnishings and Thermal Insulation in consultation with the ~~California Office of Health Hazards~~ *Office of Environmental Health Hazard Assessment* may review relevant scientific and medical literature as well as the findings, rulings, and regulations of the United States Consumer Product Safety Commission, the federal Centers for Disease Control and Prevention, the United States Environmental Protection Agency, the European Union, and other international, federal, and state agencies, to assess the potential health and environmental impacts of fire retardants that may be used to meet fire retardancy standards.

(e) The Bureau of Home Furnishings and Thermal Insulation, in consultation with the California Office of Environmental Health Hazard Assessment, may adopt regulations that protect human health and safety, and the environment, and may prohibit in products under its jurisdiction the use of *components or* chemicals for which the safety to human or animal health cannot be clearly established.

(f) The Bureau of Home Furnishings and Thermal Insulation shall enforce this chapter pursuant to Chapter 3 (commencing with Section 19000) of Division 6 of the Business and Professions Code.

SEC. 6. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity

- 1 shall not affect other provisions or applications that can be given
- 2 effect without the invalid provision or application.

O